

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Criminal Action No.
	)	09-00349-01-CR-W-DW
RANDY WILSON,	)	
	)	
Defendant.	)	

On March 14, 2011, a mental competency hearing was held regarding the competency evaluation performed by Dr. George Athey, Jr., at defendant's request, pursuant to 18 U.S.C. § 4241. Dr. Athey's report dated January 13, 2011, and his subsequent report dated January 31, 2011, stated that defendant Wilson was not competent to assist his attorney in his defense. At this hearing, the parties stipulated that Dr. Athey would testify consistent with his reports. The two reports were filed with the Court as attachments to defendant's Second Preliminary Motion to Determine Competency and Incorporated Memorandum of Law (Doc. No. 41) filed on February 7, 2011.

Also at the hearing on March 14, 2011, counsel for the government orally requested, pursuant to 18 U.S.C. § 4241, for a determination of the mental competency of the defendant to stand trial. Counsel for the government filed a written motion later on March 14, 2011, which was granted and, prior to holding a hearing to determine the mental competency of the defendant, the Court entered its Order pursuant to 18 U.S.C. § 4241(b) directing that a

psychological or psychiatric examination of the defendant be conducted and that a psychological or psychiatric report be filed with the Court pursuant to 18 U.S.C. §§ 4247(b) and (c).

The Court has now received the psychological or psychiatric report of Dr. Tammy Etem Sheehan which concluded that the defendant is incompetent to understand the nature and consequence of the proceedings against him and to assist properly in his defense. This report has been provided to and reviewed by counsel for the government and counsel for the defendant. On April 18, 2011, a hearing was held pursuant to 18 U.S.C. § 4247(d) for the purpose of determining the mental competency of the defendant to stand trial. At this hearing, counsel for the government and counsel for the defendant stipulated that the Court could consider the psychological or psychiatric report of Dr. Tammy Etem Sheehan as if Dr. Sheehan had appeared in person and testified under oath. No additional evidence was offered by the government or by the defendant.

Based on the record before the Court and the findings of Dr. George Athey, Jr. and Dr. Tammy Etem Sheehan, it is

RECOMMENDED that the District Court, after conducting its own independent review of the record, find that defendant is incompetent to understand the nature and consequence of the proceedings against him and to assist properly in his defense. It is further

RECOMMENDED that, pursuant to 18 U.S.C. 4241(d), the Court enter an order committing defendant Randy Wilson to the custody of the Attorney General for hospitalization and treatment in a suitable facility for a reasonable time up to 120 days to determine whether there is a substantial probability that in the foreseeable future, the defendant will attain the capacity to permit the trial to proceed.

Counsel are reminded that each has 14 days from the date of receipt of a copy of this Report and Recommendation to file and serve specific objections to the same. A failure to file and serve timely objections shall bar attack on appeal of the factual findings in this Report which are accepted or adopted by the District Judge except upon the ground of plain error or manifest injustice.

**/s/ JOHN T. MAUGHMER**

JOHN T. MAUGHMER  
United States Magistrate Judge

Kansas City, Missouri